

PATENT

REMARKS

In the Office Action, claim 23 is objected to under 37 CFR 1.75(c) as being improper form because a multiple dependent claim should refer to other claims in the alternative only.

In the Office Action, claim 32 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

In the Office Action, claims 1, 2, 10-15, and 25-27 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,674,248 to Kroll et al.

In the Office Action, claims 1, 2, 4, 6-8, 14, 15, 17, 18, 20, 22, and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,411,357 to Munshi et al.

In the Office Action, claims 1-3, 10-16, 22, 23, 25-28, 30, 31, and 33-35 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,546,807 to Kroll.

In the Office Action, claims 5 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 5,674,248 to Kroll et al. in view of U.S. Patent No. 5,741,307 to Kroll.

In the Office Action, claims 5, 19, 29, and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 6,546,807 to Kroll in view of U.S. Patent No. 5,741,307 to Kroll.

In the Office Action, claim 21 is rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent Number 5,674,248 to Kroll et al.

In the Office Action, claims 21 and 36 are rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent Number 6,546,807 to Kroll.

In response thereto, claims 7, 8, 10, and 14-28 have been cancelled, claims 1, 4, 11, 29-33, 35, and 36 have been amended, and new claims 37-50 have been added. Accordingly, claims 1-6, 9, 11-13, and 29-50 are now pending. Following is a discussion of the patentability of each of the pending claims.

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Preliminary Matter

During a telephone conversation with Derrick Reed on September 14, 2004, a provisional election was made to prosecute the invention of Figure 4, claims 1-8, 10-23, and 25-36. Affirmation of this election is made by the Applicants. Claims 9 and 24 are withdrawn from further consideration by the Examiner as being drawn to a non-elected invention.

Claim 23 has been cancelled in response to the objection under 37 CFR 1.75(c) as being improper form because a multiple dependent claim should refer to other claims in the alternative only

In response to the rejection under 35 U.S.C. §112, second paragraph, the following amendment have been made to claim 23: line 21, the third occurrence of "the" has been replaced with --a--.

Independent Claim 1

For at least the same reason discussed below with regards to claim 29, it is respectfully submitted that claim 1 is in condition for allowance.

Dependent Claims 2-6, 9, and 11-13

Claims 2-6, 9, and 11-13 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claims 29, 32, and 36

Without addressing the merits of the rejection of claims 29, 32, and 36, in accordance with the American Inventors Protection Act, U.S. Patent No. 6,546,807 to Kroll, does not qualify as prior art for a rejection under 35 U.S.C. §103(a) via 35 U.S.C. §102(e) because the present application has been filed on or after November 29, 1999 and the subject matter of U.S. Patent No. 6,546,807 to Kroll and claims 29, 32, and 36 were, at the time the invention was made, subject to an obligation of assignment to the

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same organization (see section entitled "Obligation of Assignment to the Same Organization").

Accordingly, U.S. Patent No. 6,546,807 to Kroll no longer qualifies as prior art under 35 USC §103(a) via 35 USC §102(e), and therefore, claims 29, 32, and 36 can not be considered obvious over such cited reference. Thus, it is respectfully submitted that claims 29, 32, and 36 are in condition for allowance.

Dependent Claims 30, 31, and 33-35

Claims 30, 31, and 33-35 depend from claim 29 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 37

For at least the same reason discussed above with regards to claim 32, it is respectfully submitted that claim 37 is in condition for allowance.

Independent Claim 38

For at least the same reason discussed above with regards to claim 36, it is respectfully submitted that claim 38 is in condition for allowance.

Independent Claim 39

For at least the same reason discussed above with regards to claim 29, it is respectfully submitted that claim 39 is in condition for allowance.

Dependent Claims 40-42

Claims 40-42 depend from claim 39 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

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Independent Claim 43

For at least the same reason discussed above with regards to claim 32, it is respectfully submitted that claim 43 is in condition for allowance.

Dependent Claims 44-46

Claims 44-46 depend from claim 43 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 47

For at least the same reason discussed above with regards to claim 36, it is respectfully submitted that claim 47 is in condition for allowance.

Dependent Claims 48-50

Claims 48-50 depend from claim 47 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Obligation of Assignment to the Same Organization

Ronald Tamura, an attorney of record for the present application, states that Application Serial Number 10/045,844 and U.S. Patent Number 6,546,807 to Kroll were, at the time the invention of Application Serial Number 10/045,844 was made, owned by Pacesetter, Inc. or subject to an obligation of assignment to Pacesetter, Inc. Submitted herewith are Exhibit A, which is the recorded Assignments for U.S. Patent Number 6,549,807 to Kroll; and Exhibit B, which is the recorded Assignment for application Serial Number 10/045,844.

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CONCLUSION

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

12/2/04

Date

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Enclosures: Exhibits A and B

CUSTOMER NUMBER: 36802

Serial No. 10/045,844

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